

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CRAIG A. GENESESS,)	CIVIL ACTION NO. 2:16-cv-00876
)	
Plaintiff,)	HONORABLE MARK A. KEARNEY
)	
v.)	
)	
COMMONWEALTH OF)	
PENNSYLVANIA,)	
)	
Defendant.)	Electronically Filed.

PLAINTIFF’S SECOND MOTION TO SUPPLEMENT REQUESTED JURY INSTRUCTIONS

COMES NOW, the Plaintiff, CRAIG A. GENESESS, by his attorneys, LAW OFFICES OF JOEL SANSONE, JOEL S. SANSONE, ESQUIRE, MASSIMO A. TERZIGNI, ESQUIRE, and ELIZABETH A. TUTTLE, ESQUIRE, and hereby moves this Honorable Court to supplement Plaintiff’s requested jury instructions as follows:

1. Plaintiff respectfully requests that Plaintiff’s Proposed Jury Instructions filed with this Honorable Court on June 15, 2021, be supplemented to include the following instruction:

a. Deliberate Indifference – Elements

In hyper-pressurized environments requiring a snap judgment, an official must actually intend to cause harm in order to be liable. In contrast, where the actor has time to make an unhurried judgment, a plaintiff need only allege facts supporting an inference that the official acted with a mental state of deliberate indifference.

To satisfy the deliberate indifference standard, Mr. Geness must establish that the judges of the Court of Common Pleas of Fayette County (1) knew that Mr. Geness’ federally protected rights were substantially likely to be violated; and (2) that they “fail[ed] to act despite that knowledge.”

Deliberate indifference does not require a showing of personal ill will or animosity toward the disabled person, nor is knowledge of certainty of harm or the intent to harm required. Authority: *Kedra v. Schroeter*, 876 F.3d 424, 431 (3d Cir. 2017); *S.H. ex rel. Durrell v. Lower Merion Sch. Dist.*, 729 F.3d 248, 266 (3d Cir. 2013); *Chambers v. School Dist. of Phila. Bd. of Educ.*, 537 Fed. App'x 90. 96 (3d Cir. 2013).

_____ ACCEPTED _____ REJECTED

Respectfully submitted,

LAW OFFICES OF JOEL SANSONE

s/Joel S. Sansone

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